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Official notification is the procedural basis for informing  
the parties to a dispute in Algerian law

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#### Abstract:

Formal notification is considered one of the most important procedural actions to ensure a fair trial and embodies the principles of prima facie and the right of defense, which are guaranteed constitutionally and legally to the parties to a judicial dispute. Where the Algerian legislator singled out official notification in the civil part with special provisions in Chapter Two of Chapter Eleven of the Code of Civil and Administrative Procedures Law 08-09 amended and supplemented by Law N 22-13 through Article 406 and what follows, which would define its conditions to make it valid And a product of its legal effects.

**Keywords:** Official notification, the principle of presence, fair trial, judicial litigation.

#### Introduction:

Official notification, including formal service, is the basic legal procedure for informing parties to a legal dispute in a manner that leads to their actual knowledge of their being subject to legal prosecution, by summoning them to appear. This procedure is primarily carried out by the legally

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authorized person, namely the judicial officer. This is called official notification, in accordance with Article 12 of Law N 06-03 regulating the profession of judicial officer. The latter gives the notification an official character in accordance with Article 406, paragraph 1, of the general provisions of Chapter Two, entitled "Official Service Contracts," of Title Eleven, entitled "Official Service Appointments and Contracts," of the Code of Civil and Administrative Procedure, Law 09-08, as amended and supplemented by Law N 22-13, in its Articles 406 and following. This establishes the most important principle, namely the presence of the parties to a legal dispute, in accordance with Article 3, paragraph 2. During the course of the dispute, the parties must benefit from equal opportunities to present their claims and defenses. Judges and parties must abide by this principle, along with the right to defense stipulated in Article 175 of the Constitution, to ensure a fair trial.

For official notification, of all types, to be valid and produce its legal effects, the legislature has set specific conditions that the parties must observe. The judge must ensure the proper formal conduct of the proceedings, as it is a fundamental procedure from which the legal deadlines for litigation are calculated. Given that official notification is an important means for the proper conduct of litigation proceedings, and is enshrined in principles that the legislature attaches great importance to in the Code of Procedure, the following question arises:

### **What is the legal framework for notification in Algerian law?**

To answer this question, we have decided to divide our study of the topic as follows:

**Section One:** Conditions for Validity of Notification to Disputing Parties

**Second Section:** The Subject of Official Notification to Disputing Parties

**First Axis: Conditions for the Validity of Notification to Parties to a Dispute**

The Algerian legislator has established special provisions for official notification to ensure its validity and effectiveness through those responsible for it and the methods of notification. Therefore, the nature of this axis requires dividing it into the following:

**First - Those Responsible for Notifying Parties to a Dispute**

**1-The judicial bailiff, the primary person responsible for official notification:**

The judicial bailiff profession was regulated by Law 06-03. The judicial officer is considered a public officer authorized by the public authority to manage an office on his own account and under his own responsibility, provided that the office is subject to specific conditions and standards determined by the regulations.

By examining Article 32, we find that it is established for every person bearing state seals, including the judicial officer, who is granted the status of a public officer upon receipt of the state seal in accordance with the conditions specified by Executive Decree No. 09-77 of February 11, 2009.

The duties of the judicial bailiff include the notification of contracts, documents, and notices, as stipulated in the first paragraph of Article 12, such as investigation reports, hearings, judgments, and orders.

This is done according to documents drawn up by the judicial officer in accordance with formal conditions, under penalty of inadmissibility (Such as the summons stipulated in the article, which presumably includes a receipt of the summons).

## **2-Persons charged with notification as an exception:**

The legislator has attempted to ease the duties of judicial bailiff, in accordance with the requirements of speeding up procedures and not obstructing the wheel of justice. He has created other methods for notification, but these do not confer official status on the notification, unlike the judicial bailiff. Therefore, the former is not considered official. The most important of these are:

### **A\_ Postal employees :**

Postal employees are considered employees of the special departments of the administration in charge information and communication technologies, in accordance with Executive Decree No. 10-200, as amended by Executive Decree N 11-260. The legislator has authorized them, pursuant to Article 411 of the Code of Civil and Administrative Procedure, to serve the minutes prepared by a judicial officer after the person concerned refuses to receive them. Article 411 stipulates that "a copy of the official notification shall be sent by registered letter with acknowledgment of receipt, and the deadline shall be calculated from the date of the postmark." In other words, the notification of the postal employee is not official, but it contains an official document, namely the official notification report of judicial bailiff.

### **B\_ Clerks :**

Clerks play a critical role in the administration of justice. They are divided into the following departments:

- Clerks of the Clerks of the Courts
- Clerks of the Courts

A review of Article 49/9 of Executive Decree 08-409 reveals that the clerk is tasked with indexing and serving judicial rulings and decisions.

Therefore, the documents and evidence relied upon by the parties to the lawsuit are the responsibility of the clerk.

Among the most important notifications carried out by the clerk, for example, are:

-Notifying the parties to attend the investigation proceedings in the event of their absence or the absence of their attorney from the session via registered letter with acknowledgment of receipt through the clerk, in accordance with Article 85/2.

-In the case of a judicial delegation, the process of notifying and sending the delegation, along with the necessary documents, is carried out by the clerk of the judicial authority that has

summoned the parties via registered letter with acknowledgment of receipt, in accordance with Article 110 of the Civil and Administrative Procedures Code.

### **C. Public Prosecution :**

The Public Prosecution is a judicial body that initiates public prosecutions, as stipulated in Article 29 of the Code of Criminal Procedure.

The Algerian legislature has granted the Public Prosecution the power to notify in exceptional cases, namely:

- Cases of unknown domicile.
- Cases of persons residing abroad, provided their domicile is known.

Here, the Public Prosecution carries out the notification task either itself or through the judicial police within its jurisdiction.

A person of unknown domicile is one who does not have an original domicile, such as nomads, street vendors, vagrants, and smugglers who move from one place to another at short intervals and whose specific place of residence is unknown.

The Public Prosecution is also entrusted with notifying persons residing abroad, whether citizens or foreigners, by having the judicial officer deliver the notification paper to the Public Prosecution, which in turn sends a copy to the Ministry of Foreign Affairs or any other competent authority, in accordance with diplomatic agreements.

### **D-Judicial Police:**

Judicial police are a group of categories that the legislature has granted judicial police status, as stipulated in Article 15 of the Code of Criminal Procedure. They are:

- Category One: Presidents of municipal people's councils.
- Category Two: National Gendarmerie officers.
- Category Three: Employees affiliated with the special corps of inspectors, governors, and National Security Police officers.
- Category Four: Ranking members of the Gendarmerie.
- Category Five: Employees affiliated with the special corps of inspectors, governors, and National Security Police officers.

The task of entrusting notification to judicial police is still in effect, as notification is carried out by order of the public prosecutor to which they are affiliated.

The Public Prosecution, which is responsible for enforcing judicial rulings, does not notify the rulings themselves, but rather through the judicial police within its jurisdiction.

Here, we find that judicial police play a role in the notification of criminal rulings.

### **Second: Official Notification Mechanisms for Parties to Disputes**

The Algerian legislator has regulated, within the provisions of Chapter Eleven of the Code of Civil and Administrative Procedure, entitled "Terms and Contracts for Official Notification," the methods for conducting official notification in Articles 408 to 415.

While the original notification is to be conducted in person, if the person concerned cannot be reached, the legislator has provided alternative methods through which he seeks to fill any gaps that might prevent the validity of notification or the claim of unawareness of the legal dispute.

#### **1- Notification of a Natural Person:**

In this point, we will distinguish between notification conducted with the person concerned and notification received by other persons who are legally entitled to this right.

##### **-1-1 Official Notification in Normal Cases:**

##### **a- Notification of the Person in Person**

The legislator stipulates in Article 408 of the Code of Civil and Administrative Procedure that official notification must be conducted in person.

This notification is carried out by a judicial bailiff in accordance with Article 19 of the Code of Civil and Administrative Procedure. The officer must make every effort to convey this information to the person to be notified within the legally prescribed timeframes. This ensures certain knowledge.

If the person to be notified makes an error, the notification shall be void, and the person making the notification shall bear responsibility for this error.

In accordance with Article 409 of the Code of Civil and Administrative Procedure, if the parties appoint an agent, official notifications delivered to him shall be considered valid. This agency must also be subject to the provisions stipulated in Articles 571 to 589 of the Civil Code.

##### **B. Notification at the addressee's residence**

The Algerian legislature has expanded the concept of official notification methods, permitting notification to be delivered at the addressee's original residence or at their chosen residence if personal notification is not possible.

Notification in this regard is considered valid pursuant to Article 410 of the Code of Civil and Administrative Procedure. Article 410 of the Code of Civil and Administrative Procedures, in its second paragraph, also emphasizes the necessity for the person receiving the notification to have legal capacity; otherwise, the notification is voidable. For notification to be valid, the following conditions must be met:

\*It is impossible to notify the person to whom it is requested to be notified to two persons;

\*The person to whom it is impossible to notify must have a real or elected domicile. The real domicile is considered the place where the person's principal residence is located. In the absence of such a place, the place of normal residence shall replace it. The real domicile is subject to the provisions of Articles 36 and 37 of the Code of Civil and Administrative Procedure. The elected domicile is the place chosen by the person to carry out a specific legal act, such as choosing a lawyer's office as their domicile. The elected domicile is subject to the provisions of Article 39 of the Code of Civil and Administrative Procedure. A problem has arisen regarding the degree of kinship between family members and the person to whom the notification is addressed. The legislator, in

the current Civil and Administrative Procedures Law, has limited this relationship to relatives residing with him in his original residence. Can the notification be delivered in this case to his relatives residing in his chosen residence?

It can be said that the legislator has somewhat narrowed the authority to deliver the notification paper to family members residing with him, in order to ensure the certainty of the person to whom the notification is addressed.

#### **C. Notification by mail:**

Notification by mail is an exception, but it does not confer official status on the employee's notification, as we previously noted regarding the general rule of notification by bailiffs. This is referred to in Article 411 of the Code of Civil and Administrative Procedure.

The legislature has established this provision in the event that the person concerned refuses to receive the notification document, or refuses to sign it or affix their fingerprint. This is noted in the document, and a copy is sent to the person via registered mail with acknowledgment of receipt. In this case, official notification is considered to be personal notification, and the deadline is calculated from the postmark date.

This provision is considered to ease the burden on bailiffs, despite the risks it entails, such as the loss of the message to be served.

#### **D\_ Notice on Bulletin Boards:**

Continuing to present the alternative methods established by the legislature for official notification, notice delivered on the court's bulletin board or municipality headquarters is an alternative solution when personal notification is not possible. This is confirmed by Article 412/1 of the Code of Civil and Administrative Procedure. The bailiff exercises this right by preparing a report detailing all the procedures he has taken. He then posts a copy of the notification paper on the court bulletin board and the municipality where the notified party last resided.

#### **1-2- Official notification in special cases:**

##### **A. Notification if the value of the obligation exceeds 500,000 DZD:**

Article 412/4 of the Code of Civil and Administrative Procedure stipulates that if the value of the obligation exceeds 500,000 DZD, and personal notification is not possible, the bailiff shall publish the contents of the official notification agreement in a national daily newspaper, with the permission of the president of the court where the notification is located and at the expense of the person receiving the notification.

Serving this form of notification is considered personal notification.

##### **B. Notification of the Detainee:**

Official notification of the detainee shall be made in accordance with the provisions of Article 413 of the Code of Civil and Administrative Procedure at the place of his detention. This is done by transferring the judicial officer or any person qualified to do so to the place of detention, regardless

of whether the detention is temporary, hard labor, imprisonment for debt, or other custodial penalties.

### **C. Service Abroad**

Official notification is essentially carried out by a judicial bailiff. However, his jurisdiction does not extend beyond the borders of the Algerian state. Therefore, for those residing abroad, notification is carried out by delivering the notification paper to the Public Prosecution, which in turn sends a copy to the Ministry of Foreign Affairs or any other competent authority.

This is in accordance with the procedures stipulated in judicial agreements, such as Article 414 of the Code of Civil and Administrative Procedure. In the absence of a judicial agreement, notification is sent via diplomatic channels, in accordance with Article 415 of the Code of Civil and Administrative Procedure.

### **2. Service of a Legal Person :**

A legal person is any group of persons or assets granted legal personality by law. This is defined in Article 49 of the Civil Code, for example, but not limited to. Article 50 of the same law also sets out the conditions that must be met by a legal person.

#### **A\_ Notification of Public Legal Entities:**

In this regard, the Algerian legislator has referred to Article 408/2 of the Code of Civil and Administrative Procedures, which requires that notification of public legal entities be made to the representative appointed for this purpose and at the headquarters of administrations, regional authorities, and public institutions of an administrative nature required to be officially notified.

To complete the notification process for a legal entity, a natural person must be present to deliver the notification record to the legal or contractual representative of the concerned representative.

#### **B\_ Notification of Private Legal Entities:**

A private legal entity is notified by its legal or contractual representative, any person appointed for this purpose, or the liquidator, in accordance with Article 408/03 of the Code of Civil and Administrative Procedure.

The location of notification is not stipulated, unlike a public legal entity, which is notified at its headquarters and to the person appointed for this purpose.

### **Second Axis: Place of Notification for Disputing Parties**

The place of notification for disputing parties is established in judicial and non-judicial contracts (first), and executive instruments (second).

#### **First: Judicial and Non-Judicial Contracts :**

The term "judicial and non-judicial contracts" is a term introduced into Algerian law. The former refers to all judgments, decisions, and orders issued by judicial bodies, while the latter refers to official contracts drawn up outside the judicial system, including those issued by judicial bailiffs.

#### **A- Judicial Contracts:**

One of the duties assigned to judicial bailiffs is to notify judgments, decisions, and judicial orders issued by various judicial bodies, pursuant to Article 894 of the Code of Civil and Administrative Procedure.

Judgments and decisions issued in disputes before the courts are notified to the parties concerned or to interested third parties, enabling each party to review the content of the judgment or decision and thus exercise their right to file an appeal.

This appeal is only effective from the date of official notification of the judgment, as stipulated in Article 383 of the Code of Civil and Administrative Procedure.

In this regard, a distinction must be made between the ordinary methods of appeal, represented by opposition and appeal, and the extraordinary methods of appeal, which include appeals for cassation and petitions for reconsideration. Regarding opposition, Article 329 of the Code of Civil and Administrative Procedures sets the appeal deadline at one month, starting from the date of official notification of the judgment or decision in absentia. Regarding appeals, any party to the dispute, whether or not they attended the hearing, may file an appeal against the judgment or order issued by the court, in accordance with Article 949 of the Code of Civil and Administrative Procedures. The appeal deadline is set at one month from the date of official notification to the person concerned. The appeal deadline is extended to two months if the official notification was made at the person's actual or chosen domicile. The appeal deadline for judgments in absentia does not run until the opposition deadline has expired, in accordance with Article 336 of the Code of Civil and Administrative Procedures.

In an extraordinary appeal, a party to the dispute may, at the request of the Supreme Court, examine the application of the law by the trial court. Pursuant to Article 354 of the Code of Civil and Administrative Procedure, an appeal must be filed within two months from the date of official notification of the contested judgment if served in person. This period is extended to three months if served at the person's actual or chosen domicile.

The second extraordinary appeal is a petition for reconsideration, which aims to review the judgment or decision that has been rendered and has acquired the force of *res judicata* and to rescind it in terms of the facts and the law.

It must be filed, in accordance with Article 393 of the Code of Civil and Administrative Procedure, within two months, effective from the date on which the witness's testimony is proven to be forged, the date on which the forgery is proven, or the date on which the withheld document is discovered.

## **B. Non-Judicial Contracts :**

As previously noted, non-judicial contracts fall outside the scope of the judiciary. They can be defined as the papers prepared, served, or executed by a judicial officer. The papers issued by judicial officers are numerous and varied, and can be divided according to purpose into:

1- **.Notifications, warnings, and alerts:** These are papers intended to inform a person of a specific matter or prohibit them from doing so.

2- **.Executive papers:** These are papers specifically for execution, such as seizure reports and seizure sale reports. Each type of these papers has its own characteristics, consistent with the purpose for which they were prepared. However, there are general rules that these reports share in terms of their preparation and the information they contain.

### **Second: Notification of Executive Instruments**

The Algerian legislator did not define executive instruments, but rather regulated them in the Code of Civil and Administrative Procedure in Chapter Four, entitled "General Provisions on the Compulsory Execution of Executive Instruments," and in Chapter One, entitled "On Executive Instruments as a Basic Condition for Compulsory Execution".

Articles 600 to 635 of Law 08-09, amended by 22-13 of February 25, 2008, containing the Code of Civil Procedure.

Article 600 stipulates the types of executive instruments, namely:

\*Court rulings that have exhausted ordinary appeals and rulings subject to immediate enforcement,

\*Urgent orders,

\*Payment orders,

\*Orders on petitions,

\*Orders to determine judicial expenses,

\*Judicial council decisions and Supreme Court decisions that include an obligation to enforce,

\*Administrative court rulings and Council of State decisions,

\*Minutes of conciliation or agreement signed by judges and deposited with the registry,

\*Arbitration awards ordered to be enforced by heads of judicial bodies and deposited With the Registry

\*Checks and bills of exchange, after formal notification of protests to the debtor, in accordance with the provisions of the Commercial Code

\*Notarial contracts, particularly those relating to fixed-term commercial and residential leases, loans, gifts, endowments, sales, mortgages, and deposits

\*Public auction sales minutes, after depositing them with the Registry

\*Provisions for real estate auction fees.

All other contracts and documents that the law grants the status of an executive instrument are also considered executive instruments.

All these executive instruments must be stamped with the executive formula, in accordance with Article 601, which states: "Execution may not be carried out except in cases exempted by law, except by a copy of the executive instrument stamped with the executive formula." In addition to the text of Article 281 of the Civil and Administrative Procedures Code, which states: "The executive copy is the copy stamped with the executive formula"...

Therefore, the executive instrument is a legal act that addresses the substantive right, while the executive copy is a copy of the original executive instrument stamped with the word "executive formula".

There are two types of executive instruments:

**.1Judicial executive instruments:** These are instruments issued by the judicial body, and include judgments, decisions, and orders of all types issued by the judiciary. This is stated in paragraphs 600 of the Civil and Administrative Procedures Code.

**.2Non-judicial executive instruments:** These are instruments formed outside the courts, such as notarized contracts, official foreign documents, conciliation and mediation reports, arbitrator rulings, commercial documents, public auction sales reports, real estate auction awards, and bail bond reports.

#### **Conclusion:**

Finally, we find that notification is the most important pillar for achieving a fair trial, which is conducted in accordance with specific procedures. This includes the parties' awareness of the existence of a dispute, which allows them to confront each other in accordance with the principle of in-person communication. The law has assigned individuals to serve notification initially, namely the judicial bailiff, who has an official status for notification. Exceptionally, these individuals include the Public Prosecution, postal employees, court clerks, and even judicial police officers, in accordance with legal requirements to alleviate the burden of judicial officers. All of this is done according to methods explicitly specified by law, such as personal notification or by means of a notification. Official notification of judicial contracts issued by the judiciary and non-judicial contracts issued by nominal entities other than the judiciary is carried out by the judicial officer, who is a public officer bearing the seal of the state or the legally designated persons. This is in addition to executive documents, which are notified and are considered a means of enforcement if stamped with the executive formula. Results:

\*The legislature's dedication to the provisions of official notification guarantees a fair trial in civil disputes.

Recommendations:

\*It is imperative that the provisions of electronic notification be regulated in accordance with the requirements of current developments concurrent with electronic litigation.

\*The degree of kinship between those eligible to receive official notification and the person to whom it is served be determined, to ensure the concerned party has full knowledge.

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